



16 November 2020

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**Re: Re-Examination of the Case for a Human Rights Act in Tasmania**

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The Tenants' Union of Tasmania (TUT) welcomes the opportunity to provide comment on the *Re-Examination of the Case for a Human Rights Act in Tasmania*.

The Tenants' Union of Tasmania is a not for profit community organisation providing information, advice and representation to 54,000 residential tenants living throughout Tasmania. We also offer community legal education and training and advocate for the improvement of residential tenants' rights.

**The need for a Human Rights Act in Tasmania**

In 2006, in our submission to the Tasmania Law Reform Institute's Issues Paper 'A Charter of Rights for Tasmania?', we noted that there was too much emphasis on the market to provide solutions to an increasingly prevalent housing crisis and that a Charter of Rights would provide legitimacy to advocacy efforts for more secure, affordable and comfortable housing:<sup>1</sup>

*The increasing expectation that "the market" will solve problems of supply and demand, combined with a declining resource allocation from governments to public housing, has produced a housing crisis that appears to be deepening. Increasing reliance on private ownership of rental properties has led to a predominance of family rental homes that are subject to the principals of 'freedom of contract', rather than public policy driven regulation.*

...

*We submit that to rely upon market forces to solve this housing crisis is unsupported by evidence. Low-income earners' access to housing requires both the favourable interpretation of current legislation in favour of human rights and new legislation that articulates those human rights. It is our view that a Charter of Rights, that includes the right to housing, would add legitimacy to our ongoing legal representation and law reform work, aimed at increasing the security, affordability and standard of housing for Tasmanian tenants.*

In the final report *A Charter of Rights for Tasmania*, the Tasmania Law Reform Institute recommended that the fundamental rights that Tasmanians hold as significant would be further enhanced and legally secured through the enacting of a Charter of Rights that included the right to adequate housing.<sup>2</sup>

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<sup>1</sup> Tenants' Union of Tasmania submission to the Tasmania Law Reform Institute, A Charter of Rights for Tasmania (Issues Paper No. 11: August 2006).

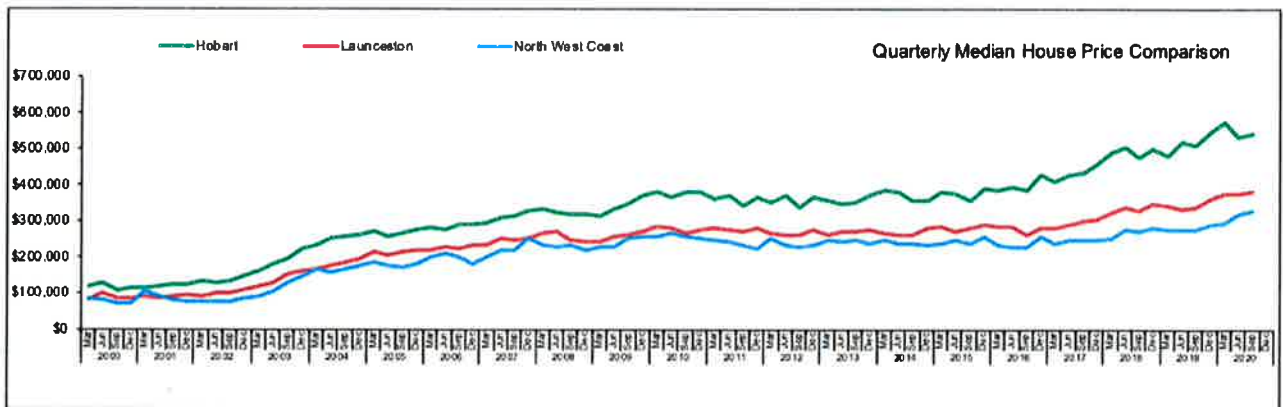
<sup>2</sup> Tasmania Law Reform Institute, *A Charter of Rights for Tasmania* (Final Report No. 10: October 2007).

More than a decade later, the failure to enshrine human rights protection has seen an erosion of some tenants' rights as well as a growing cohort of Tasmanians living in housing stress and without adequate housing.

**Housing more Expensive leading to Housing Stress**

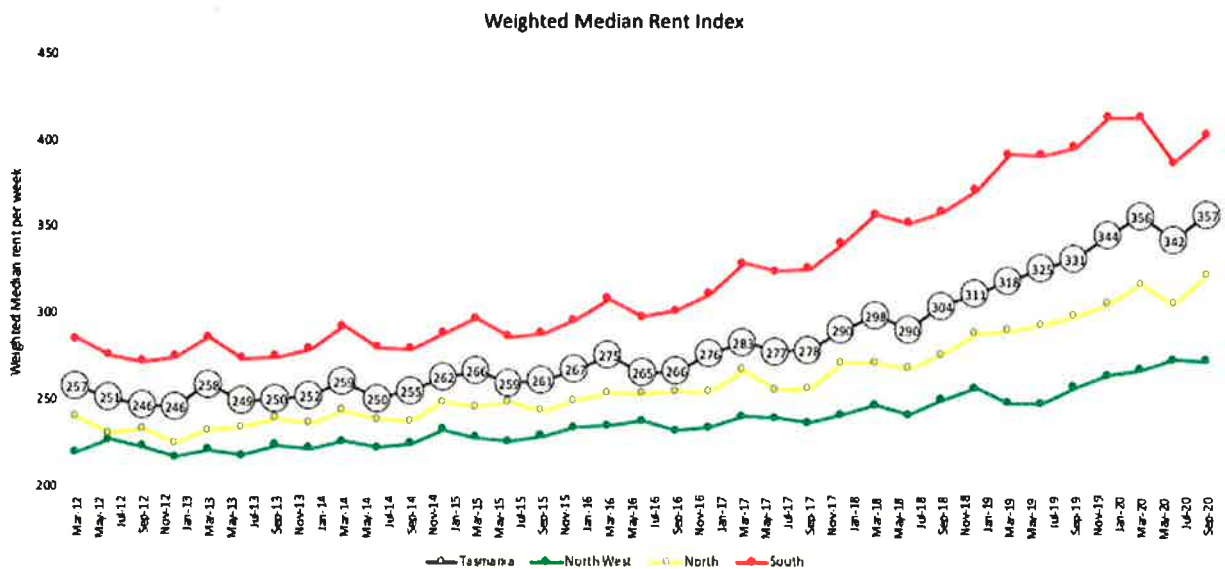
**- House Prices**

As the following data from the Real Estate Institute of Tasmania highlights, house prices have risen considerably over the last twenty years but particularly since 2016. In 2000 the median house price in Hobart was \$117,750. In 2019 it was \$478,000 - an increase of 305 per cent over twenty years. Rising house prices have made it more difficult for first home buyers to enter the market, meaning that many have to rent for longer, placing further pressures on the private rental market.



**- Rental Prices**

At the same time as house prices have risen, rental prices have skyrocketed. Data provided since 2012 from the State Government's Rental Deposit Authority demonstrates that median rents across Tasmania having increased by 38 per cent, from \$257.00 per week in 2012 to \$357.00 per week in 2020. The increase has been most pronounced in Greater Hobart, as the following graph demonstrates, with rents increasing by 42 per cent from \$285.00 per week to \$405.00 per week.



To put this into perspective, the Rental Affordability Index, a study published bi-annually by National Shelter and SGS Economics & Planning, concluded in its 2018 report that Hobart was Australia's least affordable city relative to income. The report found that tenants in Hobart have to spend around 30 per cent of their income on rent – placing the median tenant in rental stress.<sup>3</sup> Outside Hobart, regional Tasmania was the most expensive region relative to income in the country.<sup>4</sup>

- ***Housing stress***

Since 2007, Anglicare Tasmania has published an annual snapshot of the Tasmanian private rental market to assess whether it is possible for people living on low incomes to afford to rent a home. As part of the research, all properties listed for rent are reviewed on one weekend each year and then assessed as to whether each property is affordable and appropriate for 14 types of households on low incomes. The most recent *Rental Affordability Snapshot Tasmania 2020* found that over the last eight years there has been significant decline in private rental listings leading the authors to conclude:<sup>5</sup>

*Too many Tasmanians are forced to suffer a series of inadequate short-term situations while waiting for affordable and appropriate accommodation, resulting in poorer health, wellbeing, education and employment outcomes for thousands of families.*

The Anglicare Tasmania research found that there has been a 52 per cent decrease in listings since 2013 which was “seriously limiting opportunities for people to find and secure affordable private rental properties”.<sup>6</sup> Of the properties listed, just 11 per cent were affordable for persons relying on income support, with no affordable properties for persons receiving youth allowance, four affordable properties for persons on Newstart Allowance and six affordable properties for persons in receipt of a Disability Support Pension.<sup>7</sup> As well, as the graph below demonstrates there has been a sharp downward trend in the number of affordable properties in Tasmania for a couple with two children earning a minimum wage, with a 74.5 percent decrease over the last eight years.

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<sup>3</sup> National Shelter and SGS Economics & Planning, *Rental Affordability Index* (November 2018). As found at <https://www.shelertas.org.au/wp-content/uploads/2018/11/RAI-Nov-2018-high-quality.pdf> (Accessed 8 July 2019).

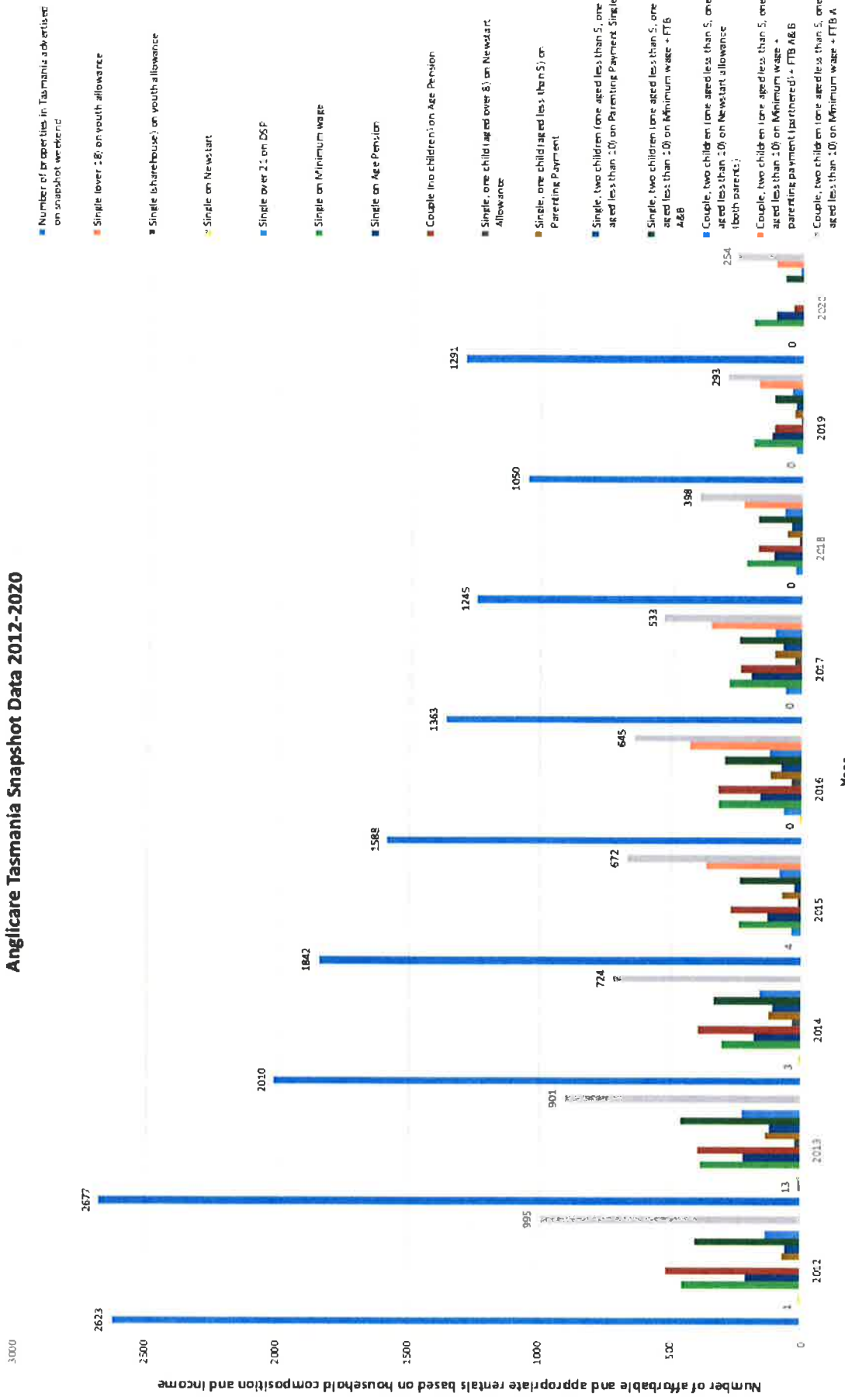
<sup>4</sup> Ibid.

<sup>5</sup> Anglicare Tasmania, *Rental Affordability Snapshot Tasmania 2020* (April 2020). As found at <https://www.anglicare.asn.au/research-advocacy/the-rental-affordability-snapshot> (Accessed 13 November 2020) at 17.

<sup>6</sup> Ibid. at 6.

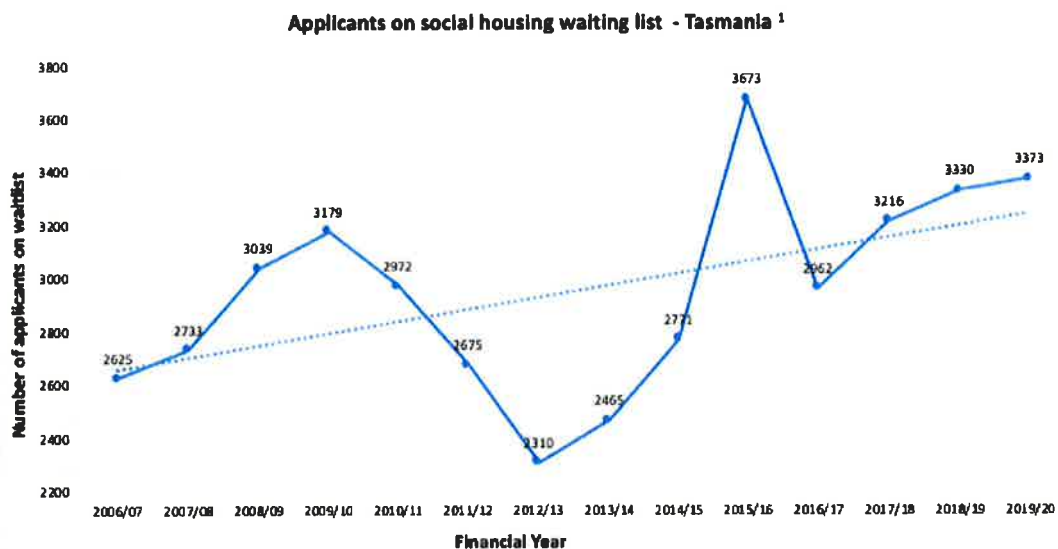
<sup>7</sup> Ibid. at 4.

### Anglicare Tasmania Snapshot Data 2012-2020



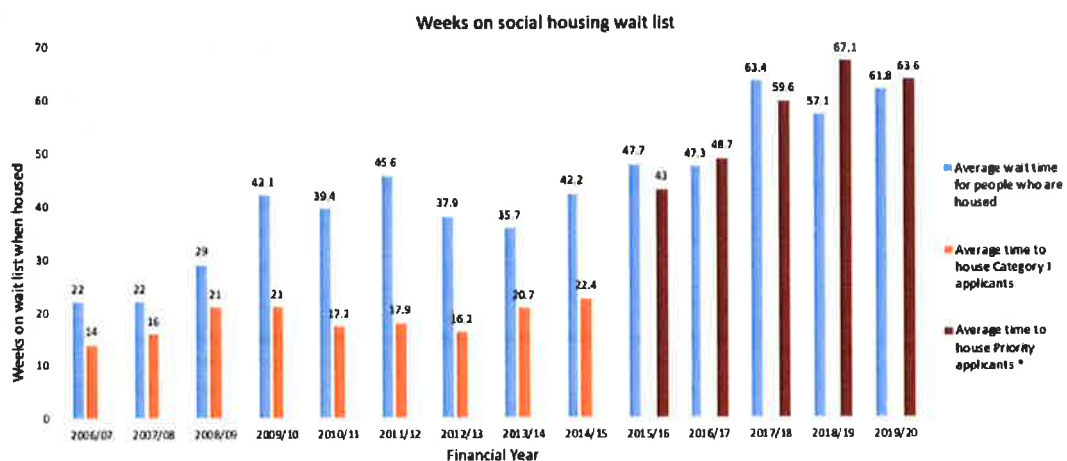
## Increasing numbers of priority housing applicants

Increasing rental prices and the concomitant increase in housing stress has in turn placed a significant strain on the social housing system. Since the release of the *A Charter of Rights for Tasmania* final report in 2007, the waiting list for social housing has increased by 28 per cent from 2625 applicants to 3373 applicants.



<sup>1</sup> Sources: (1) DHHS Annual Report 2009-10, p.28; (2) DHHS Annual Report 2013-14, p.20; (3) DHHS Annual Report 2017-18, p.39; (4) Communities Tasmania Annual Report 2019-20, p.51

At the same time, the average wait time for priority applicants has blown out from 15 weeks to 62 weeks, a 413 per cent increase.



\* This indicator has replaced Average time to house Category 1 applicants due to the new HAPS in 2015. The new HAPS has seen a move to a two category system of Priority and General, and has resulted in a higher number of applicants in the Priority category

Sources: (1) DHHS Annual Report 2009-10, p.28; (2) DHHS Annual Report 2013-14, p.20; (3) DHHS Annual Report 2017-18, p.39; (4) Communities Tasmania Annual Report 2019-20, p.51

### - *Homelessness*

Unsurprisingly, the lack of affordable rental properties in the private rental market and inadequate social housing has resulted in increased homelessness, with a 2019 report finding that Tasmania recorded a 20 per cent increase in the rate of homelessness between 2001 –



2016, including a 54 per cent jump in Hobart.<sup>8</sup> The report noted that Hobart is one of three Australian cities in which “the connection between declining rental affordability and growth in homelessness rates appears to be most striking...”.<sup>9</sup> More recently, it was reported that in 2018-19, Specialist Homelessness Services (SHS) assisted 6,600 people in Tasmania, about the same as the previous year, the majority of whom said they were seeking help because of the “housing crisis”, a figure significantly higher than nationally (54 per cent compared with 37 per cent nationally).<sup>10</sup>

### ***Housing protections for vulnerable tenants***

Both the Australian Capital Territory and Victoria have had human rights legislation in place for more than a decade,<sup>11</sup> and during that time important precedents have been set that protect vulnerable tenants against homelessness, and safeguard tenants in transitional housing.

#### ***- Transitional Housing***

In the decision of *Canberra Fathers and Children Services Inc v Michael Watson (Residential Tenancies)*<sup>12</sup> a father and his three teenage sons who were at risk of homelessness moved into transitional housing. Two years later the social housing provider served a notice to vacate on the family on the grounds that they had limited housing stock and the property was required to assist other families. Before the ACT Civil and Administrative Tribunal, the notice to vacate was found to be lawful under the *Residential Tenancies Act 1997* (ACT). However, the Tribunal was also required to consider whether the issuing of the notice breached the families’ human rights.<sup>13</sup> In finding that these rights had been infringed, Senior Member Lennard placed considerable weight on the evidence that the family would likely become homeless, observing:<sup>14</sup>

*Disadvantaged people in need of social housing and at risk of homelessness are among the most vulnerable in our society. Their circumstances mean that their human rights are imperilled.<sup>15</sup> Where a public authority is making decisions about the housing of such people, the Human Rights Act requires the public authority to act in a manner that is compatible with human rights and to give proper consideration to human rights matters in making decisions.*

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<sup>8</sup> S Parkinson, D Batterham, M Reynolds and G Wood (2019) *The changing geography of homelessness: a spatial analysis from 2001 to 2016*, Australian Housing and Urban Research Institute, Final Report No. 313.

<sup>9</sup> S Parkinson, D Batterham, M Reynolds and G Wood (2019) *The changing geography of homelessness: a spatial analysis from 2001 to 2016*, Australian Housing and Urban Research Institute, Final Report No. 313 at 339.

<sup>10</sup> Australian Government, *Specialist homelessness services 2018-19: Tasmania* (Australian Institute of Health and Welfare: 2019) at 1. As found at [https://www.aihw.gov.au/getmedia/562a8e1f-cf37-499f-bb24-10a44c6f5907/TAS\\_factsheet.pdf.aspx](https://www.aihw.gov.au/getmedia/562a8e1f-cf37-499f-bb24-10a44c6f5907/TAS_factsheet.pdf.aspx) (Accessed 13 November 2020).

<sup>11</sup> *Human Rights Act 2004* (ACT); *Charter of Rights and Responsibilities 2006* (Vic).

<sup>12</sup> [2010] ACAT 74.

<sup>13</sup> Section 11 of the *Human Rights Act 2004* (ACT) establishes the right to the protection of the family and children and section 12 of the same Act establishes the right not to have one’s privacy, family, home or correspondence interfered with unlawfully or arbitrarily.

<sup>14</sup> [2010] ACAT 74 at para. 30.

<sup>15</sup> *Metro West v Sudi (Residential Tenancies)* [2009] VCAT 2025 at 1 per Bell J.

The Tribunal subsequently found that the families' eviction would result in homelessness and was a breach of the right to be free from unlawful or arbitrary interference with the home:<sup>16</sup>

*Protecting the human rights of those members of society who are in vulnerable positions or at risk of harm is an important value. The Watsons are a family at risk of homelessness from eviction from crisis accommodation in circumstances where they cannot afford private rental, have a considerable waiting period for alternate affordable public housing and face breaking up the family unit in order to obtain adequate but separate housing.*

A similar decision was handed down in the Victorian case of *Homeground Services v Mohamed (Residential Tenancies)*<sup>17</sup> which was concerned with a social housing provider contracted by the State Government to provide transitional housing to disadvantaged youth. The 'youth tenancy policy' prescribed by the social housing provider mandated that tenants could stay a maximum of 18 months. The Tribunal found that adherence to the policy even when it was conceded the tenant would be evicted into homelessness was arbitrary and amounted to a breach of the tenants' human rights.

Unfortunately, both in law and in practice such decisions are unlikely in Tasmania. First, regulations in Tasmania mean that persons in transitional housing lack the protections of other residential tenants and are able to be evicted without reason:<sup>18</sup>

**7. Non-application of Act to certain residential tenancy agreements and persons**  
*Each provision of the Act does not apply to a residential tenancy agreement that is for a period of 3 months or less and that relates to residential premises providing accommodation for –*

*(a) homeless persons; or*

*(b) persons who are seeking an escape from situations of family violence.*

And in practice, there is a recognised lack of 'exit points' to ensure that persons in transitional housing are moved into long-term and secure accommodation. A recent Parliamentary *Inquiry into Housing Affordability* in Tasmania finding that there was "a lack of exit points into secure, affordable housing for people leaving temporary accommodation".<sup>19</sup>

**- Housing and Parole**

Another important human rights precedent that has been established in the Australian Capital Territory concerns the rights of public housing tenants to keep their homes despite being imprisoned.

In the case of *Commissioner for Social Housing v Jones (Residential Tenancies)*,<sup>20</sup> a public housing tenant was sentenced to a term of imprisonment in December 2014. After being

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<sup>16</sup> [2010] ACAT 74 at para. 72.

<sup>17</sup> [2009] VCAT 1131. Also see *Metro West v Sudi (Residential Tenancies)* [2009] VCAT 2025.

<sup>18</sup> Regulation 7 of the *Residential Tenancy Regulations 2015* (Tas).

<sup>19</sup> House of Assembly Select Committee on Housing Affordability, *Inquiry into Housing Affordability* (2020) at para 3.109.

<sup>20</sup> [2016] ACAT 75.

notified that the tenant's earliest release date would be October 2016, the public housing provider served the tenant with a notice to vacate requiring the tenant to vacate the premises by late September 2015. The application to evict the tenant was heard in January 2016 before the ACT Civil and Administrative Tribunal, which held that a 'without cause' notice of termination may amount to arbitrary interference with the tenant's home and therefore a breach of the tenant's human rights. Senior Member Lennard took into account a range of factors including the landlord's role and responsibility in managing scarce public housing resources but ultimately determined:<sup>21</sup>

*I am satisfied that maintaining his current home, which provides a safe environment close to people he is familiar and friendly with, and, away from inappropriate persons and anti-social behaviour will be a factor that will be considered by the Sentence Administration Board in determining his application for parole... [and] ... while it is not possible to predict the outcome of an application for parole, the evidence before me establishes that it is more likely than not a successful transition back into the community will be greatly assisted, should the tenant maintain possession of his current home.*

Unfortunately, the lack of human rights protection in Tasmania means that similar cases result in eviction. Currently, Housing Tasmania -the Tasmanian public housing provider- has a policy that tenants imprisoned to terms of imprisonment of more than 13 weeks will be evicted. Correspondence received from Housing Tasmania in 2017 noted that there are "between eight to twelve tenancies per year that are ended as a result of the tenant being incarcerated".<sup>22</sup> In combination with community housing properties we estimate that there are around twenty residential tenants who lose their homes each year due to their being sentenced to a term of imprisonment.<sup>23</sup> A good example of a social housing tenant whose imprisonment resulted in eviction and then homelessness is Todd Hutchinson who was a client of ours in 2017.<sup>24</sup>

### **Todd Hutchinson**

*Todd Hutchinson lived for 8 years in a Housing Tasmania property in West Moonah. He was a good tenant, never in rental arrears, regularly mowing the lawns and keeping the house in good condition. In October 2016 Todd was sentenced to ten months imprisonment for drink driving. Whilst imprisoned, family members initially paid Todd's rent because they wanted him to be able to move back into his home upon his release. Despite the commitment made by his family to keep paying the rent until his release, Housing Tasmania applied for and was granted an Eviction Order early in 2017 on the basis that Todd was absent from his home for more than 13 weeks. After receiving three months remission for good behaviour, Todd was released in May 2017 and has been homeless ever since.*

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<sup>21</sup> [2016] ACAT 75 at paras. 28, 36(c).

<sup>22</sup> Correspondence received from Lynden Pennicott, the Director of Tenancy Services with Housing Tasmania on 11<sup>th</sup> October 2017. In his email, Mr Pennicott notes that there are "between eight to 12 tenancies per year that are ended as a result of the tenant being incarcerated...".

<sup>23</sup> According to the Australian Bureau of Statistics *2016 Census* there are 54,030 households renting in Tasmania. According to the Productivity Commission's *2017 Report on Government Services* 13,242 are either Housing Tasmania (7166) or community housing provider (6076) homes.

<sup>24</sup> Todd Hutchinson's story formed part of a Community Legal Centres Tasmania briefing to the Legislative Council in support of the *Sentencing Amendment (Phasing Out of Suspended Sentences) Bill 2017*. The Bill, which was subsequently passed introduced home detention in to the *Sentencing Act 1997* (Tas). Todd Hutchinson's evidence was that he would not have lost his home if home detention had been a sentencing option at the time he was sentenced.



It is also worth noting that social housing tenants who lose their homes are more likely to be imprisoned for longer, with the Parole Board unlikely to release them on parole. As the Parole Board of Tasmania noted in its most recent annual report “the lack of availability of suitable housing for inmates on return to the community remains an issue for applicants for parole”.<sup>25</sup>

The case law from Victoria and the Australian Capital Territory, two jurisdictions where human rights statutes have been in place for some time, establishes that social housing landlords must act in a way that is compatible with human rights.<sup>26</sup> In the case of social housing tenants and transitional housing tenants, human rights legislation has ensured greater protection of tenants’ right to adequate housing. This can be contrasted with Tasmania which does not have the same human rights protections and where policies currently in place increase the risk that disadvantaged tenants are placed in a revolving cycle of homelessness and emergency accommodation. In turn, this increases the risk of admission to the mental health care system or corrective services, and for children in those tenants care, the child protection system.

### **Procedural Fairness and Public Housing Tenants**

Around eight years ago we became aware that Housing Tasmania was evicting allegedly problematic tenants by serving them with a notice to vacate on the basis of lease expiration. This prevented the tenant from remedying the breach or disputing the allegedly problematic behaviour.

We strongly believe that such evictions amount to an ‘arbitrary eviction’ in international human rights law and have campaigned strongly against the practice, arguing that because of the risk of homelessness, eviction from social housing should be an action of last resort. As a result, we have argued that all social housing providers must afford procedural fairness to its tenants by only evicting in circumstances where a tenant has been provided with an opportunity to remedy the breach and/or seek a right of review.

In our efforts to have the practice changed, we met with the relevant Minister and their advisors as well as representatives of Housing Tasmania. After our pleas for change were ignored, we took the arguments to the Supreme Court of Tasmania.

In *King v Director of Housing*<sup>27</sup> the tenant, Angela King was a single mother with three young children who had been served with a notice to vacate from her public housing provider for end of lease. Despite requesting an internal review of the decision, Angela King was informed that because she was not being evicted for a breach of lease there was nothing to review. An application filed in the Supreme Court under the *Judicial Review Act 2000* (Tas) that her public housing provider had a duty to afford her procedural fairness because there was ‘a decision of an administrative character made... under an enactment’ was dismissed on the basis that the termination of the lease agreement was contractual and not administrative in nature. Justice Blow (as he then was) noting:<sup>28</sup>

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<sup>25</sup> Parole Board of Tasmania, *Annual Report 2018-19* at 5. Also see the recent Parole Board of Tasmania decision of D G E in which it was noted that “previous applications before the Board have been adjourned for several reasons including lack of suitable accommodation...”. As found at <https://www.justice.tas.gov.au/paroleboard/decisions-2020/e-d-g> (Accessed 15 November 2020).

<sup>26</sup> See for example, section 1(2)(c) of the *Charter of Human Rights and Responsibilities 2006* (Tas).

<sup>27</sup> [2012] TASSC 82.

<sup>28</sup> *King v Director of Housing* [2012] TASSC 82 at para. [23] per Blow J.

*Some people might see this result as most unfair. According to the evidence relied on by counsel for the applicant, she is a single mother with three young children; she is dependent on a pension; she cannot afford to move into the private rental market; and eviction from her Housing Tasmania home would result in her and her three children becoming homeless. There is no suggestion that she has breached any term of her lease, nor that the premises have been damaged during her occupancy of them. Despite persistent enquiries, no explanation has been given for the decisions that she sought to challenge. Housing Tasmania has procedures whereby, whenever a decision is made to terminate a tenant's lease because of non-compliance with a requirement of the lease, that decision can be reviewed in accordance with internal appeal processes. No such rights of review are available to the applicant because her lease has expired, not been terminated. The reasons for the impugned decisions were not disclosed during these proceedings. As counsel for the Director rightly submitted, the Court has no jurisdiction to review those decisions under the Judicial Review Act.*

The case was appealed to the Full Court of the Supreme Court which unanimously upheld Blow J's decision.<sup>29</sup>

Five years later, in the case of *Parsons v Director of Housing*,<sup>30</sup> another attempt was made to ensure that social housing providers afforded procedural fairness to their tenants. This time the argument was made that eviction for lease expiration was not 'genuine or just' as required by section 45(3)(b) of the *Residential Tenancy Act 1997* (Tas). In this case, the tenant Gregory Parsons was an intellectually disabled man served with a notice to vacate for lease expiration, despite having lived in his home for almost twelve years and having his lease extended fourteen times. Despite asking for reasons for his eviction and a right of review, Housing Tasmania reiterated that it was because his lease was ending. After the Magistrates Court ordered the eviction Gregory Parsons appealed to the Supreme Court.

In his judgment Geason J found that in ordering the eviction the magistrate had not properly considered whether he was satisfied that the reason for service of the notice to vacate on Mr Parsons was "genuine or just" and went on to observe:<sup>31</sup>

*The provision confers some protection against capricious and arbitrary action by imposing a requirement going beyond checking for compliance with the formal steps for procuring vacant possession, and which directs the Court to make a judgment about the matter which takes account of all the circumstances. That is a task which is familiar to courts.*

*In this case the respondent's practice of repeatedly renewing the appellant's lease is material: the long history of repeated renewals enlivens enquiry as to the reason for service of the notice, and is one matter which should inform the Court's evaluation about whether the reason for the notice is genuine and just. In the circumstances of this case, the court was entitled to ask the respondent about that as part of the evaluative exercise, because it was a matter which was relevant to "genuine and just"; indeed it was relevant to "just" as a separate consideration to which the court was entitled to have regard, even on a disjunctive interpretation of the provision. I observe that this was an intellectually*

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<sup>29</sup> *King v Director of Housing* [2013] TASFC 9 per Tennent, Porter and Wood JJ.

<sup>30</sup> [2018] TASSC 62.

<sup>31</sup> [2018] TASSC 62 at paras. [59]-[60] per Geason J.

*impaired man who had enjoyed 14 renewals of his lease, only to be confronted with a notice the stated reason for which was that the lease was due to expire...*

The case was appealed to the Full Court of the Supreme Court which unanimously upheld Geason J's decision.<sup>32</sup> To the best of our knowledge, in the almost eighteen months that have elapsed since no social housing provider has sought to evict a tenant into homelessness relying on lease expiration.

We strongly believe that the right of social housing tenants to be afforded procedural fairness would have been resolved much earlier and more effectively if Tasmania had enacted a Charter of Human Rights. In both of the cases mentioned above Senior Counsel were engaged and significant sums of money and resources were expended. A Charter of Human Rights would have resulted in a cost saving for the State in legal fees and resources as well as providing social housing tenants with the reassurance that they would not be arbitrarily evicted.

### **Adequate Housing and the Short-term Accommodation Sector**

Finally, we raise the issue of the short-term accommodation sector as an example of State Government policy that failed to act in a way compatible with human rights. In 2017 the State Government introduced a state-wide policy to effectively deregulate the short stay accommodation market.<sup>33</sup> At the policy launch the Premier Will Hodgman and Peter Gutwein, the Minister for Planning and Local Government, noted that it had "worked with all stakeholders, listened to their concerns and developed a clear way forward".<sup>34</sup> Importantly, no-one from the community or housing sectors was consulted. In our opinion, if Tasmania had enacted a Charter of Human Rights it is likely that the right to adequate housing would have been considered. At the very least, the community and housing sectors would have been consulted.

The failure to take into account the right to adequate housing in its sharing economy policy has had a significant impact on the private rental market as a diverse range of interest groups have noted. As we summarised in a submission to a Legislative Council Select Committee *Inquiry on Short Stay Accommodation in Tasmania*:<sup>35</sup>

- *According to data provided by the Hobart City Council, 209 investment properties are being used exclusively for Airbnb within Hobart.<sup>36</sup> The Australian Bureau of Statistics states that at least 6,976 properties in Hobart are rented – 35.1 per cent of total dwellings. Those 209 properties potentially represent 3 per cent of the total rental supply.*

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<sup>32</sup> *Director of Housing v Parsons* [2019] TASFC 3 per Blow CJ, Estcourt J and Martin AJ.

<sup>33</sup> Tasmanian Government, *Visitor accommodation just got easier*, Tasmanian Government. As found at <https://www.planningreform.tas.gov.au/updates/visitor-accommodation-just-got-easier> (Accessed July 2018).

<sup>34</sup> Will Hodgman and Peter Gutwein, 'Embracing the sharing economy,' Tasmanian Government Media Release 3 February 2017. As found at <http://www.premier.tas.gov.au/releases/embracing-the-sharing-economy> (Accessed 16 November 2020).

<sup>35</sup> Legislative Council Select Committee *Inquiry on Short Stay Accommodation in Tasmania* (October 2019) at 5.

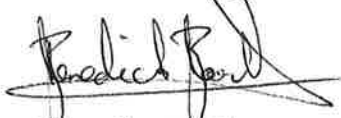
<sup>36</sup> They may also be shacks, but the amount of shacks within the Hobart City Council's jurisdiction is likely to be negligible.

- *The Tasmanian Planning Commission has accepted that “the conversion of housing stock to short term visitor accommodation is impacting the availability and affordability” of long-term rentals.*<sup>37</sup>
- *The CEO of rent.com.au, Greg Bader, is quoted by the Australian Financial Review as saying that it is only logical that the withdrawal of a few hundred properties from the rental market would cause rents to rise in a small market such as Hobart.*<sup>38</sup>
- *Melos Sulicich, the CEO of MyState, Tasmania’s second largest lender, told the same newspaper that the short stay accommodation market was causing a shortage of long-term accommodation.*<sup>39</sup>

Failing to take into account the right to adequate housing in its sharing economy policy has had a significant impact not just on tenants in the private rental market, where decreased supply has resulted in increased rental prices and more housing stress, but it has also cost the State Government, with an announcement in the 2020-21 Tasmanian Budget that there would be \$2,000,000 set aside through the Private Rental Incentive Scheme to encourage investors with properties in the short-term accommodation sector to return them to long-term tenants.<sup>40</sup>

In summary, we strongly believe that an obligation on public authorities including the State Government and social housing providers to act in a way that is compatible with human rights through the passing of a Tasmanian Charter of Rights will ensure greater protection for disadvantaged Tasmanians including those that live in social housing. In our opinion, this has been demonstrably proven in Victoria and the Australian Capital Territory, which have had Human Rights Acts on their statute books for more than a decade.

Yours faithfully,



Benedict Bartl  
Acting Principal Solicitor  
**Tenants’ Union of Tasmania**

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<sup>37</sup> Tasmanian Planning Commission, *Exemptions and Standards for Visitor Accommodation in Planning Schemes*, Draft Planning Directive No 6 (2018) 18.

<sup>38</sup> Larry Schlesinger, ‘Airbnb driving up Hobart rents, but don’t regulate: rent.com.au CEO’, *Australian Financial Review* (online), 13 June 2018 <<https://www.afr.com/real-estate/residential/tasmania/airbnb-driving-up-hobart-rents-but-dont-regulate-rentcomau-ceo-20180613-h11be6>>

<sup>39</sup> Larry Schlesinger, ‘Airbnb keeping Hobart housing market ‘robust’: MyState CEO’, *Australian Financial Review* (online), 14 June 2017 <<https://www.afr.com/real-estate/commercial/hotels-and-leisure/airbnb-keeping-hobart-housing-market-robust-mystate-ceo-20170608-gwn25f>>

<sup>40</sup> Tasmanian Budget 2020-21 ‘Housing and Community’. As found at <http://www.premier.tas.gov.au/budget-2020/housing-and-community> (Accessed 16 November 2020).